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INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

BETWEEN

BETHLEHEM STEEL CORPORATION

AND

THE WESTERN RAILWAY OF ALABAMA

DATED AS OF APRIL 23, 1974

FOR FORTY-FIVE NEW PULPWOOD FLAT (WOOD-RACK) CARS

AGREEMENT AND ASSIGNMENT

BETWEEN

BETHLEHEM STEEL CORPORATION

AND

THE FIRST NATIONAL BANK OF ATLANTA

ATLANTA, GEORGIA

DATED AS OF APRIL 23, 1974

CONDITIONAL SALE AGREEMENT

THIS AGREEMENT, dated as of April 23, 1974, by and between BETHLEHEM STEEL CORPORATION, a corporation of the State of Delaware (hereinafter sometimes called the "Seller"), party of the first part; and THE WESTERN RAILWAY OF ALABAMA, a corporation of the State of Alabama (hereinafter called the "Buyer"), party of the second part:

WITNESSETH, THAT:

In consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

1. CONSTRUCTION, SALE AND DELIVERY. The Seller hereby agrees to construct, sell and deliver to the Buyer, and the Buyer hereby agrees to buy from the Seller and to accept delivery as hereinafter provided, and to pay therefor as hereinafter set forth, the following described railroad equipment (hereinafter sometimes referred to as "cars"):

Forty-Five (45) new all steel 77-ton pulpwood flat (wood-rack) cars, to bear Buyer's numbers 20100 to 20144, both numbers inclusive, and to be constructed in accordance with design to Specification submitted in relation to Customer Order Number E-97, dated October 9, 1973, or subsequently modified by mutual agreement.

The cars shall be constructed at Seller's plant at Johnstown, Pennsylvania.

A copy of said Specification and of Seller's General Conditions have been furnished and are, by reference, made a part of this Agreement as fully as though expressly set forth herein. Said Specification may, from time to time before or during construction of the cars, be modified by written agreement between Seller and Buyer's representatives. The design and quality of material and equipment in said cars shall conform to all Association of American Railroads, American Society of Testing Materials, Department of Transportation, and Interstate Commerce Commission requirements and specifications (unless otherwise specified in said Specification) as they apply as of the date of this Agreement to cars of this character.

(A) PURCHASE PRICE. The full purchase price agreed upon for each car to be delivered hereunder is $19,300.00, subject to later price adjustment at time of billing. The full purchase price for all forty-five (45) cars to be delivered hereunder is $868,500.00, also subject to such later price adjustment.

The aforesaid purchase price for each car is as established and agreed upon in Seller's letter proposal to Buyer covering said cars, purchased under Buyer's Order Number E-97, dated October 9, 1973, and confirmed by Seller's Order Number 3400-369, dated March 13, 1974, General Agreement F67280, Seller's letter of acknowledgment dated October 16, 1973, it being further agreed that Seller will issue letter confirming final price adjustment at time of billing predicated upon the construction of the cars in accordance

with Specification above set forth, and said General Conditions of Seller and subject to the terms and conditions of said proposal, order and acknowledgment which are hereby incorporated herein by reference.

(B) DELIVERY. Seller shall deliver the completed cars to Buyer F.O.B. at Johnstown, Pennsylvania, on the line of such railroad as Buyer may designate, freight charges, if any, prepaid to such ultimate destination point or points as Buyer may designate. Seller further agrees to deliver the cars free of all liens, encumbrances and claims of any nature by or in favor of any other person or party, and subject only to the reservation of title thereto by Seller, in accordance with provisions hereof. Delivery of the cars shall begin approximately latter part of June 1974, and shall be completed approximately by the middle of July 1974, subject, however, as to all of said cars, to delays due to labor troubles, fires, floods, explosions or other accidents, or to delays of carriers or of subcontractors, or in receipt of material, or to any other cause or causes (whether or not of the same general character as those herein specifically enumerated) beyond the reasonable control of Seller.

On delivery of each unit of the cars hereunder at Johnstown, Pennsylvania, the Buyer will assume, with respect to such unit, responsibility and risk of loss.

Seller shall give Buyer full opportunity to inspect the cars during the construction thereof at its plant in Johnstown, Pennsylvania. On completion of each of the cars, Buyer shall arrange for final inspection and acceptance of the car or cars, and shall have its agent or agents execute in quintuplicate the usual form of certificate of inspection and acceptance covering all cars found to be completed in accordance with the Specification. Each such certificate with respect to the car or cars covered thereby shall be final and conclusive evidence that such car or cars conform in workmanship, material, construction and in all other respects to the requirements and provisions of this Agreement, and are acceptable to Buyer in all details, provided, however, that such acceptance shall not constitute a waiver of any of the warranties of said Specification.

2. PAYMENT OF PURCHASE PRICE. Conditional only upon the receipt and acceptance of said cars, which may be conclusively presumed from the execution of the certificates of inspection and acceptance above referred to, the Buyer hereby promises to pay to the Seller at such place as may be designated by the Seller, the full purchase price, including prepaid freight, if any, of each car, as specified in the invoice or invoices therefor, in the following manner:

(A) That part of the full purchase price of each car, which is in excess of the deferred purchase price thereof, hereinafter specified, shall be paid in cash to Seller upon receipt by Buyer of such invoice or invoices.

(B) As to each car, purchase price being Nineteen Thousand Three Hundred Dollars ($19,300), with the net aggregate deferred purchase price for all forty-five (45) cars being $868,500, the deferred price thereof, shall be paid in sixty (60) consecutive quarterly installments, as shown below:

1 through 60 Installments - $14,475.00 each

This is subject to change based on price variations.

(C) The first of such quarterly installments in respect of each car shall be due and payable on the first day of the third month after the date of certificate of inspection and acceptance covering the final delivery of all cars purchased under this Agreement, and subsequent installments shall be due and payable on the first day of each third month thereafter until said deferred purchase price shall have been paid in full, together with interest as follows:

(i) Interest at the rate of eleven and three-eighths per cent (11.375%) per annum on the unpaid principal balance of the deferred purchase price represented by quarterly installments 1 through 60.

(ii) It is understood and agreed that the interest rate of (11.375%) per annum hereinabove stated in sub-paragraph (i) is composed of 11.00% per annum (the prime interest rate in effect as of May 6, 1974), plus an agreed additive of three-eighths (3/8) of one (1) percentage point; provided, that in the event there is a change in the prime rate as defined hereinafter in sub-paragraph (iii), the rate of 11.00% per annum hereinbefore stated, shall be equal to the changed prime rate, plus the agreed additive of three eighths (3/8) of one (1) percentage point, and the new interest rate shall become effective on, and applicable to installments covering the period beginning with, the first day of the next succeeding quarter.

(iii) It is further understood and agreed that this Agreement is to be assigned by the Seller to a bank; therefore, the "prime rate" is defined as the prime rate in effect at the assignee bank on date of this Agreement, and in event, that from time to time, the said prime rate shall have been changed by the assignee bank, then, for purpose herein provided, the said prime rate shall be deemed to be the changed rate, to become effective on the date hereinabove specified in sub-paragraph (ii). In event there is a change in the said prime rate after execution of this Agreement, the assignee bank shall promptly notify the Buyer in writing of such change.

The first payment of interest shall become due and be payable at the time the first installment payment is made, and shall cover interest from the first day of the month after the date of the certificate of inspection and acceptance covering the final delivery of all cars purchased under this Agreement, except that, in the event Seller assigns this Agreement prior to the delivery of the first car, the first payment of interest for each car delivered and accepted shall accrue from the date on which payment of the deferred purchase price of each car shall have been made to Seller by the assignee or assignees to the date of payment of the first quarterly installment of the deferred purchase price of each car, and shall be paid at the time of payment of said first quarterly installment.

Subsequent payments of interest, at the rate aforesaid, shall be due and payable at the time of payment of each subsequent quarterly installment of the deferred purchase price of each car, and shall cover interest accrued to the date upon which each such quarterly installment shall be due and payable. All interest provided for in this Agreement shall be calculated on the basis of a 30-day month, 360-day year.

(D) All payments provided for in this Agreement shall be made by the Buyer in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

3. TITLE TO THE CARS. The Seller shall, and hereby does, retain the full legal title to, and property in, any and all of said cars until the Buyer shall have made all of the payments, and shall have kept and performed all of the covenants in this Agreement provided to be made, kept or performed by the Buyer, notwithstanding the delivery of the cars to, and the right to the use thereof, by Buyer as herein provided.

The Buyer covenants and agrees that it will cause the cars to be kept numbered with the proper road numbers and will not change the number assigned to or placed on any car or cars, except with the consent of the Seller and in accordance with a statement of new numbers previously filed with Seller by the Buyer.

Buyer agrees not to place or permit to be placed upon the cars or any replacements thereof any marks, signs or words which might be interpreted as a claim of ownership of the cars by any person, firm, or corporation other than the Seller; except, however, Buyer may cause each or any car to be lettered "The Western Railway of Alabama," "West Point Route," or "WofA," or in some other appropriate manner for convenience of identification of Buyer's right to use such cars.

When and only when the Seller or if this Agreement shall have been assigned, such Assignee has been paid the full purchase price for all of said cars, together with interest and any and all other payments as herein provided, and all of the Buyer's covenants and conditions herein contained have been performed by the Buyer, absolute right to possession of, title to and property in, all of said cars shall pass to and vest in the Buyer without further transfer or action on the part of the Seller, and, upon full payment as aforesaid, Seller will, (or, if this Agreement shall have been assigned, such Assignee) if requested by Buyer so to do, execute, acknowledge and deliver to Buyer an instrument whereby Seller will acknowledge satisfaction of all payments required to be made by Buyer by any provision of this Agreement, and will transfer and convey to Buyer all right, title and interest in or to the cars which Seller then owned or held under the terms of this Agreement.

4. EXPENSES AND TAXES. All payments to be made by the Buyer hereunder shall be free of expenses to the Seller for collection or other charges, and of the amount of any local, State or Federal taxes (other than net income, gross receipts, excess profits and similar taxes) or licenses hereafter levied or imposed upon or measured by this Agreement and/or upon any assignment of or participation in any assignment of this Agreement and/or upon or measured by any sale, use, payment, shipment, delivery, or transfer of title under the terms hereof, all of which expenses, taxes and licenses the Buyer assumes and agrees to pay in addition to the above-mentioned purchase price of said cars. The Buyer shall also pay promptly all taxes and assessments which may be imposed upon the cars or for the use thereof, or upon the earnings arising therefrom or the operation thereof, or upon the Seller by reason of its ownership thereof, by any government of any country, State or political subdivision thereof in which the cars may be located or which shall have jurisdiction over the cars or any of them, and agrees to keep at all times all and every part of the cars free and clear of all taxes, assessments, liens and encumbrances, except the lien of taxes not due and payable, provided, however, that the Buyer shall not be required to pay any such taxes or assessments so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner which will not, in the judgment of Seller, affect the Seller's title in and to the cars.

5. COMPLIANCE WITH LAWS, RULES AND REGULATIONS. The Buyer covenants that the cars will at all times be maintained, used and operated under and in compliance with all laws and regulations in any jurisdiction to which the cars may be subject. The Buyer further covenants that it will comply in all respects with all acts of Congress and with the laws of the United States and of the States into which its operations involving the cars may extend during the term of this Agreement, and with all lawful rules of the Interstate Commerce Commission and any other legislative, executive, administrative, or judicial body exercising any power or jurisdiction over any of the cars, insofar as such acts, laws, and rules apply to or affect the cars or the operation thereof, and in the event that said laws or rules require the alteration of any of the cars, the Buyer agrees to conform therewith, at its expense, and to maintain the same in proper condition for operation under such laws and rules during the life of this Agreement; provided, however, that the Buyer may, in good faith, contest in any reasonable manner the application of any such law or rule which does not, in the judgment of Seller, affect the Seller's title in and to the cars.

6. REPLACEMENTS AND MAINTENANCE. The Buyer covenants and agrees that it will at all times after the delivery of said cars, maintain and keep said cars in good order and repair, at its expense, and shall bear the risk of, and shall not be released from its obligations hereunder in case of any and all damage, loss or destruction of said cars from whatever cause arising.

The Buyer shall replace the cars or any thereof, or any parts thereof, at its own cost, except as otherwise herein provided, if one or any of them shall be lost or destroyed from any cause whatever during the continuance of this Agreement, with other standard gauge rolling stock equal in value to the depreciated value as that lost or destroyed, or the Buyer shall promptly pay to the Seller a sum equal to the then unpaid balance applicable to such car or cars, together with interest accrued on such unpaid balance to the date of such payment, in which event all succeeding monthly payments shall be correspondingly reduced. The Buyer will cause any such car or cars to be marked as above provided and to be numbered with the same road number as the car or cars so replaced. Any and all such replacements of any cars or any of them and of any parts shall constitute accessions to the cars and shall be subject to all of the terms and conditions of this Agreement as though part of the original cars delivered hereunder, and included in the word "cars," as used in this Agreement. Title to all such cars shall be taken initially, and shall remain, in the name of the Seller, subject to the provision hereof.

7. REPORTS AND INSPECTION. The Buyer hereby agrees to furnish to the Seller, or its Assignee, upon request, once in every year as long as this Agreement shall be in force, an accurate statement showing the cars in actual service, the condition of the cars, the numbers and the description of such cars as may have been destroyed and replaced by other cars.

The Buyer shall promptly and fully inform the Seller or its Assignee of any loss, material damage to, or destruction of any of the cars.

The Seller or its Assignee shall have the right, but shall be under no obligation, to inspect the cars at any reasonable time or times during the continuance of this Agreement.

8. POSSESSION, USE AND LOCATION OF CARS. The Buyer, so long as it shall not be in default under this Agreement, shall, subject to all the terms and conditions of this Agreement, be entitled to the possession and use of the cars, from and after delivery thereof by the Seller to the Buyer, upon lines of railroad, owned or operated by the Buyer, or by carriers participating in joint or connecting service, or over which it or they have trackage rights, in the usual interchange of such cars, and may sublet or lease temporarily or permit the emergency use by other parties of any of the cars in the normal course of business, but at all times subject to all the terms and conditions of this Agreement.

9. PROHIBITION AGAINST LIENS. The Buyer hereby agrees to pay or satisfy and discharge any and all sums claimed by any party which, if unpaid, might become a lien or a charge upon the cars or any of them, but shall not be required to pay or discharge any such claim as long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner which will not affect the title of the Seller in and to the cars.

This covenant will not be deemed breached by reasons of liens for taxes, assessments or governmental charges or levies not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

10. INDEMNITIES AND GUARANTIES. The Buyer hereby covenants and agrees to save, indemnify and keep harmless the Seller from and against all losses, damages, injuries, claims, and demands whatsoever, regardless of the cause thereof, arising on account of the use or operation of the cars during the life of this Agreement, except as herein provided. With respect to such losses, damages, injuries, claims and demands, said covenants of indemnity shall continue in full force and effect notwithstanding the full payment of the purchase price and the conveyance of the cars, as provided in Section 3 hereof, or the termination of this Agreement in any manner whatsoever.

The Buyer will bear the risk and shall not be released from its obligations hereunder in the event of any damage to, or the destruction or loss of any or all of the cars; provided, however, that Bethlehem Steel Corporation and any successor or successors to its manufacturing property and business shall not, as to any of the cars, be relieved from its guaranty covering material and workmanship set forth in the Seller's General Conditions hereinbefore referred to. Bethlehem Steel Corporation, for itself and any successor or successors to its manufacturing property and business, also agrees to save, indemnify and keep harmless the Buyer from and against any and all royalties, damages, claims, suits, judgments, and costs that may arise in the use of any patented article on the cars at the time of delivery, except with regard to any appliances, devices, or materials specified or required by the Buyer and not manufactured by the Seller.

11. ASSIGNMENT OF INTEREST OF SELLER. The Buyer agrees that the Seller may at any time and from time to time transfer, assign, pledge, or sell participations in, this Agreement and its rights hereunder, or any part thereof, and its title and ownership in and to the cars or any thereof and its rights, powers, privileges and remedies hereunder, or any part thereof, on such terms and conditions as it may deem proper, and in any such event all rights, powers, privileges and remedies given to or vested in the Seller hereunder shall inure to the benefit of, vest in and may be exercised by and for the benefit of the transferee, assignee, pledgee

or participant, or for the use and benefit of the proper parties in interest, to the extent specified in such transfer, assignment, pledge or participation; provided, however, that no such transfer, assignment, pledge or participation shall subject any such transferee, assignee, or pledgee or participant to, or relieve the Seller from, any obligation as to the construction, delivery or warranty of the cars or any indemnity or any other duty, obligation or liability of the Seller hereunder. Any such transfer, assignment, pledge or participation may be to one or more transferees, assignees, pledgees or participants, or jointly to more than one transferee, assignee, pledgee or participant.

In case of assignment of this Agreement by the Seller, prompt written notice of such assignment shall be given by the Seller to the Buyer, and the Buyer shall be protected by the Seller in any payments made hereunder to the Seller prior to notice of such assignment. A copy of such notice shall be sent by the assignor to the assignee. Upon receipt of notice from the Seller of any such assignment, the Buyer will thereafter pay to the assignee, specified in such notice, to the extent specified in such assignment, all amounts payable by the Buyer hereunder after receipt of such notice.

The Buyer expressly represents, for the purpose of assurance to any person, firm or corporation considering the purchase of this Agreement or of all or any of the rights of the Seller hereunder and for the purpose of inducing such purchase, that in the event of such purchase and of the assignment by the Seller of this Agreement or of all or any of the rights of the Seller hereunder, the rights of the assignee or assignees to the entire unpaid purchase price or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned shall not be subject to any suit or action or to any defense, set-off, counterclaim or recoupment whatsoever, arising out of any breach of any obligation of the Seller in respect of the cars or the manufacture, construction, delivery, or warranty thereof, or in respect of any indemnity herein contained, nor subject to any suit or action or to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Buyer by the Seller. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Buyer against and only against the Seller. The provisions of this paragraph may be relied upon by any such assignee as a continuing offer by the Buyer to waive any remedies which it might otherwise have to enforce any and all such obligations of the Seller, as against such assignee or assignees, which offer may be accepted by such assignee or assignees by payment to the assignor of the consideration for the purchase and assignment of this Agreement or of some or all of the rights hereunder and by giving notice of such assignment to the Buyer.

If this Agreement shall have been assigned by Bethlehem Steel Corporation, the Seller, and the assignee or assignees shall have agreed to pay to the Seller an amount equal to the deferred purchase price of each car upon delivery to the Buyer in accordance with this Agreement, and the assignee or assignees shall fail to pay said amount when due, the Seller will promptly notify the Buyer of such event and if such amount shall not have been previously paid by assignee or assignees for any such car, Buyer will not later than 90 days after such due date, pay or cause to be paid to Seller the deferred purchase price of each such car together with interest from such due date to the date of payment by Buyer at the prime rate of interest of the assignee bank as defined in Section 2 (C) (iii) of this Agreement in effect on such due date.

The term "Seller" whenever used in this Agreement means Bethlehem Steel Corporation; provided, however, that, to the extent that the rights, titles and interest of the Seller hereunder shall have been assigned from time to time, the term "Seller" with respect to such rights, titles and interests, shall mean the assignee or assignees for the time being thereof, but this provision shall not limit or affect the obligations or liability of Bethlehem Steel Corporation under the terms of this Agreement.

12. SUCCESSORS TO, AND ASSIGNMENTS BY, THE BUYER. The Buyer hereby represents and warrants that its execution of this Agreement and its assumption and undertaking of the obligations, duties, and liabilities hereof, have been expressly authorized and that all the obligations then existing or to accrue of the Buyer under this Agreement shall be assumed by any person or corporation acquiring title to or possession of the railways and properties of the Buyer, and that upon any sale, lease, transfer, or assignment of said railways or properties, any person or corporation acquiring title thereto or possession thereof shall also, as a condition of such acquisition, be bound by all such obligations.

The Buyer hereby covenants and agrees that without the written consent of the Seller it will not pledge, hypothecate or in any way encumber, or permit the encumbrance of, any part or all of the cars, or assign or transfer this Agreement or any of its rights hereunder, or transfer or lease the cars or any of them.

The term "Buyer" whenever used in this Agreement means, before any assignment of the rights of the Buyer hereunder as herein provided, the Buyer, its successors and assigns, and after any such assignment shall include any assignee thereof, except only insofar as the Seller may specifically, in writing, relieve the Buyer or any such assignee from the obligations hereof.

13. EVENTS OF DEFAULT IN CASE BUYER

(a) shall make default in the payment of any installment of the unpaid purchase price of any of the cars herein provided for, or in the payment of any installment of interest thereon, and shall remain in default for more than ten (10) days after such payment shall have become due and payable; or

(b) shall make or suffer to be made any unauthorized assignment or transfer of this Agreement or of any interest therein or of its rights or interest in any of the cars or any unauthorized lease thereof, or any thereof, or shall cause or permit any of the cars to be pledged or held for any debt or obligation owing by Buyer or to be in any manner encumbered, or except as herein authorized shall part with the possession of the cars, and in any such event shall fail or refuse either to cause such assignment or transfer or lease to be cancelled effectually as to it and all others having any interest therein or to cause any such cars to be released from such pledge or encumbrance or to recover possession of such cars within thirty (30) days after Seller shall have demanded in writing such cancellation or release or the recovery of possession of such cars; or

(c) shall fail or refuse, for more than thirty (30) days after Seller shall have demanded in writing the performance thereof, to comply with any other of the terms and covenants of this Agreement to be kept and performed by Buyer or to make provision satisfactory to Seller for such compliance;

then, in any such case (in this Agreement sometimes called "events of default"), Seller at its option may by notice in writing delivered to Buyer, declare to be due and payable forthwith the entire unpaid balance of the purchase price of the cars; and thereupon the entire amount of such unpaid purchase price shall become and shall be due and payable immediately without further demand, together with interest thereon to such date of default at the rate set out in Section 2 of this Agreement, and thereafter interest shall be payable by Buyer upon any portion thereof overdue, during such time as it shall remain overdue, at the prime rate of interest of the assignee bank as defined in Section 2(C)(iii) of this Agreement, in effect on such date; and Seller shall thereupon be entitled to recover judgment for the entire amount so payable by Buyer with interest thereon at said rate and to collect such judgment out of any property of Buyer wherever situated. Any and all money so collected by Seller shall be applied by it as hereinafter provided in Section 14 of this Agreement.

14. REMEDIES. Buyer covenants that, in case of the happening of any such event of default, Seller by its agents may also take possession of all or any of the cars wherever they may be found, and for that purpose enter upon the railroads and premises of Buyer, and of any corporation operated under lease by Buyer, and withdraw the same from said railroads and premises, retaining all payments which up to that time may have been made hereunder for the cars and otherwise, and may lease the cars or any thereof, or, with or without retaking possession thereof (but only after making the declaration provided for in Section 13 hereof), may sell the same or any thereof as far as may be necessary to realize the balance remaining to be paid by Buyer under this Agreement, free from any and all claims at law or in equity, in one lot and as an entirety or in separate lots, at public or private sale, after at least fifteen (15) days' prior written notice to the Buyer, and with or without any other notice or advertisement, for cash or upon credit, in its discretion, and may otherwise proceed to enforce its rights in the manner provided by this Agreement.

In case Seller shall rightfully demand possession of the cars in pursuance of this Agreement and shall reasonably designate a point or points upon the railroad of Buyer, for delivery of the cars to it, Buyer shall, at its own expense, forthwith and in the usual manner, cause the cars to be moved to such point or points on said railroad as shall be designated by Seller and shall there deliver the same or cause them to be delivered to Seller; or, at the option of Seller, Seller may keep the cars on any of the lines of railroad or premises of Buyer until Seller shall have leased, sold or otherwise disposed of the same, and for such purpose Buyer agrees to furnish without charge for rent or storage the necessary facilities at any point or points selected by Seller reasonably convenient to Buyer. It is hereby expressly covenanted and agreed that the covenants in this Section 14 contained are of the essence of this Agreement and that upon application to any court having jurisdiction in the premises Seller shall be entitled to a decree against Buyer requiring the specific performance thereof.

In the event of a sale or other disposition of the cars or any of them as herein provided it shall not be necessary to have the cars or any of them present at such place or places where such sale or other disposition may be made. At any such sale or sales or other disposition, Seller may become the purchaser of the cars or any of them, and in settlement for such purchase price shall be entitled to have credited on account thereof the sums then due to the Seller by the Buyer under this Agreement.

Any such sale or sales may be held or conducted at such place or places and at such time or times as Seller may specify, or as may be required by law, and without gathering at the place of sale the cars to be sold, and in general in such manner as Seller may determine, but so that Buyer may and shall have reasonable opportunity to bid at such sale.

Upon such taking possession or lease or sale of the cars Buyer shall cease to have any rights or remedies in respect of the cars under this Agreement, and all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by Buyer, and no payments theretofore made by Buyer for the cars or any of them shall, in case of the happening of any such event of default and such taking possession, lease or sale by Seller, give to Buyer any legal or equitable interest or title in or to the cars or any of them or any cause or right of action at law or in equity with respect to the cars against Seller. No such taking possession or lease or sale of the cars by Seller shall be a bar to the recovery by Seller from Buyer of any unpaid balance of the purchase price of the cars and Buyer shall be and remain liable for the same, until such sums shall have been realized as with the proceeds of the lease or sale of any or all of the cars shall be sufficient for the discharge and payment in full of all sums payable by Buyer under any of the provisions of this Agreement.

If in case of the happening of any such event of default Seller shall exercise any of the powers conferred upon it by this Agreement, all payments made by Buyer to Seller under this Agreement after such event of default, and the proceeds of any judgment collected by Seller from Buyer hereunder, and the proceeds of every lease or sale by Seller hereunder of any of the cars together with any other sums which may then be held by Seller under any of the provisions of this Agreement, shall be applied by Seller in the order of priority following viz.: (a) to the payment of all proper expenses incurred or advances made by Seller in accordance with the provisions of this Agreement, including the expense of any retaking of the whole or any part of the cars and all expenses of the custody and of any lease or sale thereof, and (b) to the payment of all sums of money due and payable to Seller under the provisions of this Agreement, including any taxes, assessments or governmental charges paid by or imposed upon Seller in respect of the cars. After all such payments shall have been made in full the title to any of the cars remaining unsold shall be conveyed by Seller to Buyer, or otherwise as it may direct, free from any further liabilities or obligations to Seller hereunder. If, after applying as aforesaid all such sums of money realized by Seller there shall remain any amount due to Seller under the provisions of this Agreement, Buyer agrees to pay the amount of such deficit to Seller. If after applying as aforesaid all such sums of money realized by Seller, there shall remain a surplus in the possession of Seller, such surplus shall be paid to Buyer, or otherwise as it may direct in writing.

The remedies in this Agreement provided in favor of Seller shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity.

The foregoing provisions, however, are subject to the condition that if, at any time after the unpaid balance of the purchase price shall have been declared due and payable as provided in this Agreement, all arrears of installment payments with interest as hereinabove provided and the expenses of Seller and all other sums which shall have become due and payable by Buyer under this Agreement (other than the unpaid installments which shall not at the time have matured according to their terms) shall have been paid by Buyer before any lease or sale by Seller of any of the cars, and every other default in the observance or performance of any covenant or condition of

this Agreement shall have been made good or cured to the satisfaction of Seller or provisions deemed by Seller to be adequate shall have been made therefor, then and in every such case Seller shall waive the default by reason of which the unpaid balance of the purchase price of the cars shall have been declared and become due and payable and shall waive the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

Neither such retaking possession nor any lease or sale of the cars by Seller nor any action or failure or omission to act on the part of Seller against Buyer or with respect to the cars nor any delay or indulgence granted to Buyer by Seller shall affect the obligations of Buyer under this Agreement.

The filing by Buyer, or by creditors of Buyer, of any petition for reorganization or debt adjustment affecting the obligations of Buyer hereunder under Section 77 of the Bankruptcy Act or under any amendment or revision thereof or under any other provision of the Bankruptcy Act as now or hereafter existing or under any other statute, or any voluntary assignment or transfer of Buyer's interest in and under this Agreement, or any involuntary transfer of such interest by bankruptcy or by the appointment of a receiver or trustee or by execution or by any judicial or administrative decree or process or otherwise (unless such petition shall be dismissed or such assignment, transfer, decree or process shall within thirty (30) days from the filing or other effective date thereof be nullified, stayed or otherwise rendered ineffective, or unless any such receiver or trustee shall within thirty (30) days from the date of his appointment adopt this Agreement pursuant to due authority of the court appointing him) shall be deemed a breach of this Agreement and a default hereunder; whereupon Seller may elect to declare the entire unpaid balance of the purchase price immediately due and payable as hereinbefore provided and may thereupon forthwith retake possession of the cars or any of them and exercise and enforce any and all other remedies as provided by Section 13 and 14, hereof.

15. POSSESSION AND USE. The Buyer, so long as an event of default shall not have occurred under this Agreement and be continuing, shall be entitled to the possession of the cars and the use thereof upon the lines of railroad owned or operated by the Buyer either alone or jointly with others and whether under lease or otherwise, or upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with, the Buyer, or over which it has trackage rights, or upon connecting and other carriers in the usual interchange of traffic, from and after delivery of the cars by the Seller to the Buyer, but only upon and subject to all the terms and conditions of this Agreement.

16. EXTENSION NOT A WAIVER. Any extension of time granted by the Seller to the Buyer for the payment of any sum due under this Agreement whether that extension be for an intermediate payment or for final payment shall apply to the particular instance only, and shall not be deemed a waiver of the title of the Seller reserved hereunder nor any of its rights and remedies hereunder or otherwise existing.

17. RECORDING. The Buyer shall cause this Agreement to be filed, registered, and/or recorded wherever necessary for the proper protection of the Seller's or its assignee's, title and rights to the cars, and the Buyer shall, from time to time, do and perform any other act, including the execution, acknowledgment,

delivery, filing, registering and/or recording of any and all further instruments required by law, or reasonably requested by Seller, or its assignee or assignees, for the purpose of protecting its or their title and rights, or for the purpose of carrying out the intention of this Agreement, and will furnish the Seller, or its assignee or assignees, with an opinion of counsel with respect thereto, satisfactory to the Seller, or its assignee or assignees.

The Buyer will also with all convenient speed and at its own expense cause any supplemental agreement to this Agreement and the first assignment of the interest of the Seller or its Assignee in this Agreement to be duly filed or recorded in that office, or with that agency in which this Agreement shall have been recorded.

18. PAYMENT OF EXPENSES. The Buyer shall pay all costs, charges and expenses, except counsel fees of the Seller and of any assignee, incident to the preparation, execution, acknowledgment and recordation of this Agreement and of the first and second assignments hereof, and all such costs, charges and expenses in connection with any instrument supplemental hereto or amendatory hereof and of any declaration of the payment in full of the purchase money due hereunder.

19. EXECUTION OF COUNTERPARTS. This Agreement may be simultaneously executed in two or more counterparts, each of which so executed shall be deemed to be an original and such counterparts together shall constitute but one and the same agreement, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience April 23, 1974, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

20. SECTION HEADINGS. All section, paragraph, or division headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

21. MODIFICATION OF AGREEMENT. This Agreement constitutes the entire agreement between the Buyer and the Seller with respect to the sale of the cars herein referred to. No variation or modification of this Agreement, and no waiver of any of its provisions or conditions, shall be valid unless in writing and signed by the duly authorized officers of the Seller and Buyer.

22. LAWS GOVERNING. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Alabama; provided, however, that the parties hereto shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

IN WITNESS WHEREOF, Bethlehem Steel Corporation has caused this Agreement to be executed and its seal to be affixed by its duly elected and authorized officers; and

The Western Railway of Alabama has caused this Agreement to be executed and its seal to be affixed by its duly authorized officers pursuant to lawful resolutions, all as of the day, month and year first above written.

(CORPORATE SEAL)

BETHLEHEM STEEL CORPORATION,

By A. M. Reed
Vice President

ATTEST:

G. L. Frankenfield
Assistant Secretary

(CORPORATE SEAL)

THE WESTERN RAILWAY OF ALABAMA,

By J. L. Williams
President

ATTEST:

A. A. Ward
Secretary

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COMMONWEALTH OF PENNSYLVANIA,)
) ss.:
COUNTY OF LEHIGH)

On this 10th day of July, 1974, before me personally appeared R. M. Reed, to me personally known, who being by me duly sworn, says that he is VICE PRESIDENT of BETHLEHEM STEEL CORPORATION, a corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed by him on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)

Notary Public

My Commission expires

My Commission Expires
City of Bethlehem
Lehigh County
~~March 24, 1975~~

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STATE OF GEORGIA,)
) ss.:
COUNTY OF FULTON,)

On this 8th day of July, 1974, before me personally appeared J. L. Williams, to me personally known, who being by me duly sworn, says that he is the PRESIDENT of THE WESTERN RAILWAY OF ALABAMA, a corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed by him on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)

B. A. Sanders
Notary Public

My Commission expires

Notary Public, Georgia, State at Large
My Commission Expires Feb. 23, 1976

AGREEMENT AND ASSIGNMENT

BETWEEN

BETHLEHEM STEEL CORPORATION

AND

THE FIRST NATIONAL BANK OF ATLANTA

ATLANTA, GEORGIA

DATED AS OF APRIL 23, 1974

Relating to Conditional Sale Agreement between Bethlehem Steel Corporation, and The Western Railway of Alabama, dated as of April 23, 1974, covering Forty-Five new pulpwood flat (wood-rack) cars.

AGREEMENT AND ASSIGNMENT, dated as of April 23, 1974, between Bethlehem Steel Corporation, a corporation of the State of Delaware (hereinafter referred to as the "Manufacturer"), and THE FIRST NATIONAL BANK OF ATLANTA, a national banking association with its principal office at Atlanta, Georgia (hereinafter referred to as the "Assignee"),

WITNESSETH:

Whereas, the Manufacturer and The Western Railway of Alabama, a corporation of the State of Alabama, hereinafter called the "Buyer," entered into a Conditional Sale Agreement, dated as of April 23, 1974, hereinafter called the "Conditional Sale Agreement," with respect to forty-five (45) new pulpwood flat (wood-rack) cars, bearing Buyer's numbers 20100 through 20144, said cars being hereinafter together called the "cars," all as more particularly described therein, a counterpart of the Conditional Sale Agreement being prefixed hereto.

Now, Therefore, This Agreement and Assignment witnesseth that in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the Manufacturer, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

(1) The Manufacturer hereby sells, assigns, transfers and sets over to the Assignee, its successors and assigns, all the right, title and interest of the Manufacturer under the Conditional Sale Agreement (except the right to manufacture and the right to receive all payments in respect of each car in excess of the deferred purchase price specified in Section 2 (B) thereof, and in the penultimate paragraph of Section 11 thereof, and reimbursement for taxes paid or incurred by the Manufacturer as provided in Section 4 thereof), together with all the Manufacturer's powers, privileges, immunities and remedies thereunder, and all the right, title and interest of the Manufacturer in and to each car when and as the same are severally manufactured, delivered and accepted by the Buyer and payment is made by the Assignee to the Manufacturer of the amounts required to be paid under Section (7) hereof, and in and to any and all amounts which may be or become due and owing by the Buyer to the Manufacturer under the Conditional Sale Agreement on account of the deferred purchase price of each car and interest thereon, and in and to any other sums becoming due under the Conditional Sale Agreement, without any recourse, however, to the Manufacturer for or on account of any failure of payment or compliance with any of the terms or provisions of said Conditional Sale Agreement on the part of the Buyer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee, in such manner and at such times as the Assignee may deem advisable, in the name of the Manufacturer or in the name of the Assignee or in the name of the Assignee's nominee, to ask, demand, sue for, collect, receive and enforce, any and all sums to which the Assignee may become entitled under this Agreement and Assignment and compliance by the Buyer with the terms and agreements on the part of the Buyer to be performed under the Conditional Sale Agreement, but without expense and liability to the Manufacturer and for the sole benefit of the Assignee.

(2) The Manufacturer covenants and agrees that it will warrant that as set forth in and subject to the provisions of the Conditional Sale Agreement as of the date of delivery of each car to the Buyer it had legal title to the cars, free and clear of all liens and encumbrances and subject to no rights or claims of any persons whatsoever except those of the Buyer under the Conditional Sale Agreement, and good right to sell the same.

(3) The Manufacturer agrees that this Agreement and Assignment will not transfer or impose upon the Assignee or in any way affect or modify (i) its obligation to construct the cars in accordance with the applicable Specification and as warranted therein, or (ii) its obligations to indemnify the Buyer against and save and keep the Buyer harmless from loss and expense resulting from patent claims, all as set forth in Section 10 of the Conditional Sale Agreement, the said obligations to be and remain enforceable against and only against the Manufacturer as provided in the Conditional Sale Agreement.

(4) The Manufacturer will indemnify the Assignee against and save and keep it harmless from all expense, loss or damage incurred or sustained by the Assignee by reason of any defense, set-off or counterclaim of the Buyer, based on any indebtedness or liability at any time owing to the Buyer by the Manufacturer, in any suit or action brought by the Assignee under the Conditional Sale Agreement. The Manufacturer's obligation under this Agreement, further to indemnify, protect, and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action to strike any defense, set-off, or counterclaim asserted by the Buyer in any such suit or action and (b) if the court or other body having jurisdiction in such suit or action denies such motion or other action and accepts such defense, set-off, or counterclaim as a triable issue in such suit or action, the Assignee's prompt notification to the Manufacturer of the asserted defense, set-off, or counterclaim and the Assignee's giving the Manufacturer the right, at the Manufacturer's expense, to compromise, settle or defend again such defense, set-off, or counterclaim. The Manufacturer agrees to indemnify and save harmless the Assignee against any and all royalties, damages, claims, suits, judgments, and costs that may arise in the use of any patented article on the cars at the time of delivery, except with regard to any appliances, devices, or materials specified or required by the Buyer and not manufactured by the Seller.

(5) The Manufacturer covenants and agrees that it will construct the cars in full and complete accordance with the Conditional Sale Agreement and that it will deliver the same on completion thereof to the Buyer free of all claims, liens and encumbrances and in accordance with the provisions of the Conditional Sale Agreement; and that notwithstanding this Assignment, it will perform and fully comply with each and all the covenants and conditions of the Conditional Sale Agreement, set forth to be performed and complied with by the Manufacturer.

(6) The Manufacturer covenants and agrees with the Assignee, its successors and assigns, that, upon request of Assignee, its successors and assigns, Manufacturer will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Manufacturer therein or in the cars therein described.

(7) The Assignee covenants and agrees that upon the delivery to and acceptance by the Buyer pursuant to the Conditional Sale Agreement of each car, provided it shall previously have received an opinion of the counsel for the Buyer in form acceptable to the Assignee and its counsel and an opinion of counsel for the

Manufacturer in form acceptable to the Assignee and its counsel to the effect that the Conditional Sale Agreement and this Agreement and Assignment have been duly authorized, executed and delivered by the Manufacturer and the Buyer as the case may be, and that each instrument is valid and binding upon the Manufacturer or the Buyer as the case may be, in accordance with the respective terms thereof, it will, as and when each car is delivered to and accepted by the Buyer as provided in the Conditional Sale Agreement, make payment to the Manufacturer of an amount equal to the deferred purchase price of each car, determined as provided in Section 2 of the Conditional Sale Agreement, upon receipt by the Assignee of the following documents or conformed duplicates thereof:

(a) A bill of sale from the Manufacturer to the Assignee, transferring to the Assignee, title to the car or cars so delivered and accepted, and warranting to the Assignee and to the Buyer that at the time of delivery to the Buyer the Manufacturer had legal title to the car or cars and good and lawful right to sell the car or cars and that title to the car or cars was then free of all claims, liens and encumbrances of any nature except only to the rights of the Buyer under the Conditional Sale Agreement;

(b) A certificate of inspection and acceptance signed by an authorized representative of the Buyer stating that the car or cars covered by such certificate have been delivered to and accepted by him on behalf of the Buyer as conforming in all respects to the requirements and the provisions of the Conditional Sale Agreement;

(c) A duplicate of the Manufacturer's invoice covering such car or cars so accepted, stating as to such car or cars the full purchase price and the deferred purchase price thereof.

(8) The Manufacturer hereby

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was lawfully executed by it for a valid consideration, and that said Conditional Sale Agreement has not been cancelled, rescinded or repudiated, and that there has been no amendment thereto; and

(b) covenants and agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises, to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

(9) No delay in exercising, or failure to exercise or partially to exercise any of the rights of the Assignee under this Agreement and Assignment shall operate as a waiver thereof. In no event shall any notice to or demand on the Manufacturer be deemed a waiver of any obligation of the Manufacturer to comply without notice or demand with all the terms, conditions and agreements herein

contained, or a waiver of any right of the Assignee, to take further action as herein provided without notice or demand, nor in any event shall any waiver or consent on the part of the Assignee be effective unless in writing, and then only with respect to the specific instance for which the same is given.

(10) It is mutually agreed that the Assignee may assign, and/or sell participations in, its rights hereunder and under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Buyer under the Conditional Sale Agreement.

Each reference herein to the Assignee shall in every instance, except where the context otherwise requires, be deemed to include its successors and assigns, in whose favor the provisions hereof shall likewise inure; and all provisions hereof shall be binding upon the Manufacturer and its successors and assigns.

(11) This Agreement and Assignment shall be construed in accordance with the laws of the State of Alabama; provided, however, that the parties hereto shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

(12) This Agreement and Assignment may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Buyer. Although this Agreement and Assignment is dated for convenience as of April 23, 1974, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the Manufacturer and the Assignee have caused this instrument to be executed in their respective names by their respective officers thereunto

duly elected and authorized, and their respective corporate seals to be affixed, duly attested, as of the day, month and year first above written.

(CORPORATE SEAL)

BETHLEHEM STEEL CORPORATION,

By A. M. Reed
Vice President

ATTEST:

G. L. Frankenfield
Assistant Secretary

(CORPORATE SEAL)

THE FIRST NATIONAL BANK OF ATLANTA,

By Walter Wright
Vice President

ATTEST:

R. W. Stephenson

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COMMONWEALTH OF PENNSYLVANIA,)
) ss.:
COUNTY OF LEHIGH)

On this 10th day of July, 1974, before me personally appeared [illegible], to me personally known, who being by me duly sworn, says that he is a VICE PRESIDENT of BETHLEHEM STEEL CORPORATION, a corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed by him on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)

Notary Public

My Commission Expires

My Commission Expires
City of Bethlehem
~~Lehigh County~~
March 24, 1975

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STATE OF GEORGIA,)
) ss.:
COUNTY OF FULTON,)

On this 8TH day of JULY, 1974, before me personally appeared WILLIAM L WINGATE JR, to me personally known, who being duly sworn, says that he is VICE PRESIDENT of THE FIRST NATIONAL BANK OF ATLANTA, a national banking association, that the seal affixed to the foregoing instrument is the corporate seal of said association, that said instrument was signed and sealed by him on behalf of said association by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

(NOTARIAL SEAL)

Lee R. Linwood
Notary Public

My Commission Expires
Notary Public, Georgia, State at Large
My Commission Expires June 30, 1978